UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1144
18 April 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1144th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 March 1996, at 10 a.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh, twelfth and thirteenth periodic reports of Hungary (continued)

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (continued)

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GE.96-15556 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Eleventh, twelfth and thirteenth periodic reports of Hungary (CERD/C/263/Add.6) (continued)

1. At the invitation of the Chairman, the delegation of Hungary took places at the Committee table.

2. Mr. GARVALOV, continuing his statement of the previous day, asked whether the Government of Hungary was taking measures to ensure that the national minorities living in Hungary were competitive on the labour market and, in particular, whether there were provisions for helping them to acquire the necessary command of the Hungarian language. With regard to the "mother tongue" mentioned in paragraph 42 of the report, he said that there was an ongoing debate in the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE) on the concepts of "mother tongue" and "minority language"; he wondered whether Hungary was not confusing the two. He also pointed out that the official title of the Declaration adopted by the United Nations in December 1992 was "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities", not "Declaration on Minority Rights", as in the title of the official statement by Hungary reproduced in paragraph 46 of the report.

3. He was pleased that the establishment of the Constitutional Court had been a cornerstone in the creation of the rule of law in Hungary, but noted that that was not the only condition for a democratic system.

4. He asked what the "special personal data" mentioned in paragraph 59 of the report consisted of, who gathered it and for what purpose. He preferred not to say what those words made him think of. He also failed to understand why, as indicated in paragraph 64 of the report, "a person who, in the presence of others, uses an insulting or derogatory expression with respect to the Hungarian nation, a particular nationality, people, religion or race, shall not be punished" and why "only the incitement to hatred is punishable". That distinction was not very clear, since a person could easily use insulting expressions as an incitement to hatred and all the more so to racial hatred. He requested further information on the right to vote of non-Hungarian citizens (para. 69 of the report).

5. Mr. YUTZIS said that he welcomed the information submitted by the Hungarian Government on the protection of civil and political rights during the period of transition. The thirteenth periodic report of Hungary was one that inspired optimism with regard to the protection of minorities. However, he did not understand the steps taken by the Hungarian Government pursuant to article 4 of the Convention and requested more detailed information on the reform of the Penal Code mentioned in paragraph 60 of the report. He also requested information on the implementation of the International Covenant on Economic, Social and Cultural Rights in Hungary in the case of minorities. He did not think that an automatic analogy between a market economy and democracy was justified, particularly since the distribution of wealth was rarely

equitable. In that regard, he was very concerned about the vulnerability of Gypsies to the economic recession and about the development of practices that discriminated against them, as mentioned in paragraphs 130 to 132 of document HRI/CORE/1/Add.11 of 1992. It would be useful to know whether the situation described four years previously had continued to deteriorate owing to the general economic situation, and he hoped that recent statistics on Gypsies' access to housing, work, education and health care would appear in Hungary's next periodic report.

6. Mrs. SADIC ALI asked for more information on the "legal institution of minority self-governments created by direct and indirect methods, i.e. direct or indirect elections", mentioned in paragraph 37 of the report. Since the first municipal elections of that kind had already taken place on 13 December 1994, she would like information on cooperation among the elected bodies of minorities and local authorities and on the actual organization of such elections in view of the fact that, in Hungary, minorities were often scattered throughout the country. She also wondered whether Hungary had any multiracial integrationist organizations and movements or any other means of eliminating barriers between races. Like Mr. Yutzis, she was very concerned about the situation of the Gypsies, who had been seriously affected by the economic crisis and the recession, and she asked what measures the Hungarian Government was taking to assist them in the fields of education, employment and health care in accordance with the provisions of article 2, paragraph 2, of the Convention.

7. With regard to the implementation of article 4 of the Convention, she noted that in the explanatory memorandum to his proposed amendment to the Penal Code, the President of the Republic of Hungary had acknowledged that Hungarian law failed adequately to handle incidents such as the attacks carried out by extremist political groups against national, ethnic, racial or religious groups and she wished to know how Hungary intended to fulfil its obligations under article 4. Last, she asked for information on the situation of the 3.5 million Hungarians living in countries bordering on Hungary, for example, in Slovakia.

8. Mr. NARAY (Hungary) thanked the members of the Committee for their comments and criticisms and said he welcomed the fact that a dialogue had been established between the Committee and the Hungarian delegation.

9. Replying to the questions asked by Mr. Valencia Rodriguez, he said that the marginalization of the Gypsies was not a new phenomenon. However, one could not really speak of "discrimination" against them. The Hungarian Government had been trying for decades to assist them. They even benefited from "positive discrimination" in the fields of education and employment; for example, there were special training courses to help them adapt to the labour market. Gypsies accounted for 7 per cent of the population of Hungary and although 25 per cent of them did not finish primary school, that percentage was nevertheless a considerable improvement over the situation which had existed several years previously. He agreed that there was a very high level of unemployment among the Gypsies but noted that the labour market was in general very difficult for persons with little education, not only for Gypsies. The Hungarian Government was setting up special programmes for them, but, in view of the current economic situation, it could not provide them with higher levels of subsidies at the expense of other population groups.

10. He explained that all nationalities were represented in the Office for National and Ethnic Minorities, the head of which was a member of the Hungarian Gypsy community, and that it played an important role in ensuring coordination between minorities and the Hungarian Government.

11. Article 1 of the 1993 Act on the Rights of National and Ethnic Minorities set forth the applicable criteria for the definition of minorities. There was, moreover, no restriction on the use of Gypsy names in Romany, but the family name must be written in Latin characters so that it could be understood by the Hungarian population.

12. He took note of the comments on the implementation of article 4 of the Convention made by several members of the Committee and said that Hungarian legislation in that area had not been finalized. The Parliament was currently considering a bill which would amend the Penal Code and clarify the point in question. However, he emphasized that all the acts covered by article 4 of the Convention were in general punishable as crimes and that Hungary was fully carrying out its obligations in that regard. In reply to the criticisms of Committee members concerning the judgements handed down by the Constitutional Court, he said that those judgements must be interpreted in the historical context of Hungary, where freedom of expression was still a new concept.

13. Foreigners living in Hungary could bring before the courts any case of racial discrimination against them. They also had the right to participate in municipal elections. He assured the members of the Committee that Hungary's next periodic report would include more detailed information on the situation of foreigners, a question on which the Government of Hungary did not as yet have much experience.

14. With regard to the dissemination of information on the Convention, he said that the text of the Convention was published in Hungarian and distributed free of charge in book stores and libraries. The public was aware of the Convention and it was mentioned in the newspapers.

15. It was not the case, as Mr. Rechetov had said, that the minority problem in Hungary dated from the dissolution of the Austro-Hungarian Empire. Hungary had been accepting refugees throughout its existence and the end of the Empire had only contributed to the problem. Neither was it the case that minorities were not all treated equally. Except for the Gypsies, who benefited from preferential treatment, there was absolute equality both in law and in practice.

16. One of the criteria for the definition of minorities under article 1 of the Act on minorities was that they must have been living in Hungary for at least a century. He was not aware of any of international standards in that regard, but thought that Hungarian law was quite liberal. With regard to the question whether minorities had the right to self-determination, he noted that, according to the Charter of the United Nations and the relevant General Assembly resolutions, that right applied to peoples, not to minorities.

17. Referring to the existence of provisions on minorities in the bilateral agreements Hungary concluded with neighbouring countries, he gave the example of the agreement which Hungary had signed with Slovakia in 1995: under

article 3 of that agreement, the Contracting Parties stated that neither had any territorial claim on the other and article 15 defined the specific rights of minorities. The Hungarian Government considered that the ties between minorities and the mother country were extremely important to the maintenance of good relations with neighbouring countries. Article 269 of the Penal Code, under which incitement to hatred of the Hungarian nation was a crime, was not aimed particularly at minorities. Anyone who committed such a crime would be prosecuted.

18. The opportunity for foreigners to work in Hungary was regulated by Ministry of Labour Decree No. 7 of 1991. With regard to the measures taken under article 14 of the Convention, he said that the Hungarian population was well aware of the existence of the Convention and the other international human rights instruments. Several cases had been brought before the Human Rights Committee, but none had been brought before the Committee on the Elimination of Racial Discrimination in accordance with the Convention.

19. In reply to the comments made by Mr. Aboul-Nasr, he agreed that the statistics on the Gypsies were vague. There was no obligation for members of minorities to declare themselves as such. The Hungarian Government recognized that it had not done enough for the Gypsies, partly because of the country's financial difficulties. However, the Government would continue to implement special measures on their behalf and their welfare would not suffer from the anticipated budget cuts in social benefits.

20. The Bosnians had not been mentioned as a minority because they were refugees and were treated as such rather than as a minority. The Muslim population was a very small one and did not suffer from any discrimination, either de jure or de facto. The compensation measures taken by the Hungarian Government had been made available without any discrimination to all victims of illegal Government actions. He had referred specifically to the Jews because the Hungarian Parliament was still discussing the exact procedures for the implementation of those measures in the case of the Jews. The Hungarian Government had fully complied with the compensation procedures established by international conventions.

21. Replying to Mr. Sherifis, he said that very small minorities were covered by the law on minorities. They sometimes encountered problems, but the Government helped them. Furthermore, the 20-some members of Parliament who belonged to minority groups actually represented political parties rather than the minorities themselves. However, a bill was under consideration that would make it possible for minorities to be specifically represented. The Hungarian Government would provide details on the matter in its next report. The statement in the report (para. 45) that "the minority policy of Hungary is not subordinated in any way to the minority policies of other countries with respect to the Hungarian minorities" meant that there was no reciprocity: the policies of the Hungarian Government did not depend on other countries' treatment of the Hungarian minorities. The Government intended to conclude bilateral agreements with all countries which had Hungarian minorities.

22. In reply to the questions asked by Mr. Diaconu, he referred first to the problem of the identity of minorities. Mr. Diaconu had said that, in the 1930s, Hungary had had hundreds of nationalities which had lost their

identity as a result of Hungarian policies. Hungary by no means claimed that it had always acted with perfect probity and it had engaged in self-criticism; it would, moreover, like all countries to be equally critical of themselves. Nevertheless, if the estimates on the current population of the various minorities as provided by minority associations in Hungary, were compared to United Nations statistics on the same minorities for the 1930s, it was clear that there had been no great reduction in those numbers. The question was whether those nationalities were still able to recover their identities. In any case, the new law provided for that possibility: members of minorities could, even if they did not speak the language of that minority, declare themselves as such and participate in local elections or have their own schools. It was unfair to say that the local self-governing bodies did not have administrative powers. Those bodies did have powers, including the right of veto, in all matters which concerned minorities. Articles 26, 27 and 29 of the Act specifically defined their powers. From a practical point of view, he could only say that the system worked, even if it was not always easy for it to do so for reasons such as the fact that minorities were widely scattered.

23. Mr. Diaconu had also referred to cases of violence against Gypsies and foreigners. Such incidents could take place, but the Hungarian system was based on the law and provided for penalties when the law was broken. It was probably true that there was a high proportion of Gypsies in pre-trial detention. However, those arrests were made legally and appeal procedures existed. He noted that there was practically no immigration of Hungarian Gypsies, whereas there was an increase in the number of Gypsies entering from other countries: that was a good indication of the situation of Gypsies in Hungary.

24. With regard to the educational establishments for the various nationalities, he said that there had been 643 nursery schools, 645 primary schools and 9 secondary schools in 1991-1992. It was difficult to provide instruction in the languages of minorities in all areas, but the Government allocated special resources for that purpose and the situation was improving. Links between minorities and their countries of origin could be very useful in obtaining teaching materials. While no minority had established its own political party, the law did not rule out that possibility.

25. Replying to the questions asked by Mr. van Boven, he said that his country maintained close ties with the OSCE High Commissioner for National Minorities and counted on the Commissioner's assistance in dealing with minority problems. With regard to the social and cultural rights of minorities, he said that it was unarguable that some minorities were suffering from the country's economic problems. But it seemed that a new period of growth was about to begin and the situation would improve. The Hungarian Government did not want to repeat its past mistake of running a system of social protection which was much more expensive than it could afford.

26. Referring to the training of law enforcement officials, he said that the study of the Convention was part of the police training programme. As far as the attitude of the police towards Gypsies was concerned, he noted that the new parliamentary committee for minority affairs would investigate the incidents of that kind that had taken place.

27. His country had always been in favour of the amendment of article 8 of the Convention.

28. As Mr. Garvalov had noted, the naming of certain population categories was problematic. Hungary referred to national minorities and to ethnic minorities not to make a distinction between those two types of minorities, which had the same rights, but, rather, to avoid excluding Gypsies, who, unlike other minorities, did not have a "mother country". Moreover, the persons concerned had no grounds for complaint, since the text of the bill had been studied with the organizations which represented minorities. The last paragraph of the Act on the Rights of National and Ethnic Minorities established the criteria for determining whether an ethnic group was entitled to ethnic minority status. The United Nations had not yet prepared a definition of an ethnic minority and Hungary was thus helping it to do so.

29. In 1995, his country had ratified the Council of Europe's Framework Convention for the Protection of National Minorities. Hungary was also a party to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. However, while it was in favour of the drafting of a binding instrument, it did not go so far as to support the idea of a convention; the drafting of a convention was another very complex matter.

30. The use of minority languages was not a problem. Everyone was free to declare any language as his mother tongue and the law defined the circumstances in which the various mother tongues could be used, for example, in the courts. With regard to the right of foreigners to vote, he explained that they could take part in local elections.

31. The Committee should realize that, for the most part, Gypsies spoke Hungarian better than their own language, although that did not prevent them from improving their knowledge of Romany in primary schools. In reply to the concerns expressed by Mr. Yutzis, he said that there were high unemployment rates among members of that minority because society was no longer egalitarian, as had formerly been the case; it was governed by the market, which placed unskilled persons at a disadvantage. It was the market that discriminated, not the Government. It would take time for Gypsy families to understand the importance of giving their children the necessary skills required by the market. Unemployed Gypsies nevertheless received the allowances to which an unemployed person was entitled.

32. In reply to Mrs. Sadiq Ali's request for information on the organization of elections to the minority self-governing bodies, he explained that they were indirect at the national level and could be direct or indirect at the local level. They were indirect at that level if a certain number of elected members of the local government declared themselves members of an ethnic group. They could then set up, within that government, a self-governing body for that minority with certain specific rights.

33. The problem of the approximately 3.5 million Hungarians living in neighbouring countries was a very important one, since it affected almost every Hungarian family; it was for that reason that Hungary encouraged all types of contact between Hungarians living abroad and those residing in

Hungary and was concluding bilateral agreements with its neighbours. Such an agreement was currently being negotiated with Romania and there was every reason to hope that the problem which had been posed in Slovakia by the law under which Slovak was the national language of that country would be resolved with the signing of the agreement between Hungary and Slovakia. Hungary, like its neighbours, was seeking membership in the European Union; when all of those countries had achieved that goal, the problem of minorities from one country residing in another would be well on the way to a solution.

34. Mr. RECHETOV said he was pleased to learn that an agreement was being negotiated with Slovakia. He was intrigued by the fact that the Convention was a subject of public discussion in Hungary and asked for more information on what was being said about it by the media and the public.

35. Mr. Naray had referred to incitement to hatred of the Hungarian nation, but the meaning of those words must be illustrated by examples; Hungary was not a minority group, but a State, and he did not see why, as a State, it should be immune from criticism.

36. He noted that Mr. Naray had not been able to give precise answers, with supporting statistics, to the questions asked of him. In future, Hungary, which had the means to do so, should include specialists on the matters under consideration as members of its delegation.

37. Mr. DIACONU said that he was not satisfied with Mr. Naray's answer to the question on the implementation of article 4 of the Convention. A country which acceded to the Convention must declare illegal, and punish, organizations which disseminated racist propaganda. He also asked for an explanation of the right of veto of the minority self-governing bodies to which Mr. Naray had referred.

38. After summarizing the conditions in which the minorities had been formed and the former Hungarian policy of assimilation, he requested that, in its next periodic report, Hungary should provide more detailed statistics on the various ethnic minorities and explain the fact that, whereas, according to Hungarian statistics, there had been 130,000 Romanians in 1930, there were only 25,000 at present.

39. Mr. van BOVEN reminded the Committee that it was not a round table, but the body responsible for monitoring the implementation of the Convention, with all the resulting policy implications. He joined Mr. Rechetov in requesting that the next Hungarian delegation should include representatives from the departments concerned and expressed the hope that Hungary would take account of the Committee's conclusions and describe the action taken on them in its next report.

40. Mr. GARVALOV said that General Assembly resolution 1514 (XV) and resolution 1541 (XV) and its Principle VI referred specifically to the right to self-determination of countries and peoples under colonial domination in their struggle for independence, not to the right to self-determination of peoples, as recognized in article 1 of the two Covenants and in the Charter of the United Nations.

41. Speaking of the Hungarian definition of a national and ethnic minority, he said that paragraph 26 of the report should have included national origin, religion and some linguistic elements of minority cultures among the criteria used.

42. The CHAIRMAN, referring to the concern expressed by some members about the many references to self-determination, noted that, since the Committee had been planning to draft an observation or general recommendation on the subject and that would probably be done quite soon, it would be better to postpone the discussion of the question until that time.

43. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the Committee would like to receive more detailed information in the next periodic report of Hungary on: the scope of the 1993 Act on the Rights of National and Ethnic Minorities; government activities to implement articles 4 (a) and (b) and General Recommendation XV of the Committee and to amend the Penal Code accordingly; the definition of minorities and the question of the length of time required for a group to be considered a minority, the requirement of a century perhaps being revised; more detailed statistics on the attitudes of society; the strengthening of preferential measures in favour of the Gypsy population; the action taken to fill the remaining gaps in the Hungarian legal system, despite its radical reform; and a more detailed discussion of the implementation of the sociological and economic provisions of international law.

44. He welcomed the dissemination of the Convention and hoped that the Committee's conclusions would be similarly publicized. He was also pleased by the information on the election to, and the functions and responsibilities of, the minority self-governing bodies, which had a direct bearing on the implementation of the Convention.

45. Mr. NARAY (Hungary), replying to Mr. Diaconu, explained that, while the autonomous administrative bodies' right of veto was not expressly set forth in the Act on the Rights of National and Ethnic Minorities, article 29, paragraph 1, of the latter stated that, if a local minority self-governing body rejected a local government decree on a matter concerning the minority in question, such as the local press, traditions or the use of their language, that decree could not be adopted, and that was, in popular terms, the equivalent of a veto.

46. The delegation of Hungary withdrew.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 9)

47. Mr. O'FLAHERTY (Secretary of the Committee) informed the Committee that the Secretariat had, that morning, received the periodic report of Panama, which was written in Spanish and must therefore be translated into the other working languages.

48. The CHAIRMAN therefore suggested that the consideration of the situation of that country should be postponed until the Committee's next session.

49. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5) (continued)

50. The CHAIRMAN said that, at an earlier meeting, Mr. de Gouttes had been asked to coordinate information on the countries whose situations the Committee had decided to consider under agenda item 5.

51. Mr. de Gouttes might therefore request the Secretariat to provide the relevant information on those countries and to communicate it to the Committee at a public rather than at a private meeting, as requested by several members at the 1,130th meeting.

52. Mr. de GOUTTES said that he was willing to work in cooperation with the High Commissioner for Human Rights, with whom he was, moreover, scheduled to meet on the following Monday, and to transmit to the Committee the information which he had received. However, he did not wish to serve as an intermediary and thus risk impeding direct communication between the Committee and the Secretariat on agenda item 5. It his view, it was important that the members of the Committee should receive the Secretariat's information on the countries to which the urgent procedures applied directly from the Secretariat, in a public meeting, if at all possible.

53. The Committee should therefore continue, in the spirit of openness which it had displayed in the past, to make some of its members responsible for serving as intermediaries not only with the United Nations bodies and agencies dealing with human rights, but also with other bodies, such as the Council of Europe and the European Parliament.

54. Mr. van BOVEN said that the Committee had already, on several occasions, entrusted some of its members with the task of contacting other committees or bodies, but those contacts had tended to weaken with time. The Committee should therefore give careful consideration to the matter. The role of the person responsible for coordinating information under agenda item 5 should be specified more clearly.

55. Mr. RECHETOV said that he shared the views expressed by Mr. van Boven. He hoped that the coordinator of agenda item 5 would keep the Committee regularly informed of his activities and report on the content of his interview with the High Commissioner for Human Rights.

56. Mr. ABOUL-NASR said that any task entrusted to a member of the Committee should be a specific one and agreed with Mr. de Gouttes that the coordinator of agenda item 5 should not impede direct communication between the Committee and the Secretariat.

57. The CHAIRMAN suggested that the members of the Committee should postpone the discussion of the question of the coordinator of agenda item 5 and invited them to consider the question of Mr. Yutzis' future mission to Guatemala, a country whose case the Commission had decided to consider under agenda item 5.

58. Mr. O'FLAHERTY (Secretary of the Committee) said that Mr. Yutzis had been unable to visit Guatemala in May 1995 as he had planned. The Guatemalan Government had then suggested that his mission should take place in

October 1995, but had informed him at the last minute that the work of preparing for the upcoming elections left the Government no time to meet with him. The Committee and the Government would therefore have to agree on another date.

59. Mr. YUTZIS said that it was the representatives of the Guatemalan Government who, during one session of the Committee, had invited it to send one of its members on a mission to Guatemala.

60. The Committee must therefore decide, after determining to what extent Guatemala was implementing the provisions of the Convention, whether it wished to contact the Guatemalan Government to agree on a new date for the mission.

61. Mr. de GOUTTES said that the mission would be a very useful one and suggested that the Committee should send a letter to the Guatemalan Government.

62. Mr. van BOVEN, supported by Mr. ABOUL-NASR, said that he shared that view, but thought that the member of the Committee sent to Guatemala must have a very specific mandate and the Committee's full support.

63. The CHAIRMAN said that it would be desirable for Mr. Yutzis to submit his suggestions on the nature of that mandate to the Committee at a later date.

The meeting rose at 1 p.m.